

REMARKS

Claims 9, and 15-22 are in the case.

The courtesies extended by Examiner Cardenes-Navia and Supervisory Primary Examiner Bayat during the personal interview on June 23, 2009, with Ms. Royale, one of the inventors, and the undersigned are noted with appreciation. During the interview, revisions to the claim language to more particularly point out the invention were discussed, and language was suggested by the examiners which would patentably distinguish the invention from Halverson. The suggested language has been adapted by applicants in this Supplemental Amendment. The examiners also suggested adding method claims, and that suggestion has also been adapted in the present amendment.

In claim 9, the suggestions which have been adopted were including the --tangibly stored in a computer readable medium--, deleting “university” because the invention can be used for facility optimization for campuses other than university campuses, changing “processing” to – inputting--, deleting “at least one of” so as to require each of the five enumerated categories, and changing former paragraphs b) to d) to the following:

- b) segmenting the campus into geographic units and day parts;
- c) identifying each need not met by current services as an opportunity gap;
- d) for each geographic unit and day part, generating optimal facility locations and one or more optimal services corresponding to the facility locations and day parts selected from the group consisting of brands, hours, design layouts, and meal plans; and
- e) generating a financial model for each of said optimal facility locations. --

Claim 18 directed to a method of optimizing dining facility locations and generating a financial model for each of the locations has been added at the suggestion of the examiners, wherein each step includes language referring to using a computer. Four dependent claims have been added as well.

Claim 9 was rejected under 35 U.S.C. §102(b) as being anticipated by Halverson (U.S. Pub. No. 2002/0077843) and claim 15 was rejected as being unpatentable over Halverson. Claims dependent on claim 9, which have been cancelled and their limitations incorporated into claim 9, were rejected as being unpatentable over Halverson in view of Snyder.

As pointed out in the amendment submitted with the RCE, Halverson discloses an apparatus and method for mass producing a unique dining experience for each individual diner within a group of patrons. Each individual patron's preferences are surveyed, and the results of the surveys are stored within the database. Staff and management of an establishment are also surveyed regarding various personal and facilities capabilities and assets. Based upon the preference survey results, a "*dining event*" is developed that groups patrons according to areas of agreement among surveys, while simultaneously tailoring unique "events or décor" based upon the preference survey results that are not common among the patrons. (See Abstract). Halverson's system is for one time catering events, not for optimizing dining facilities on a campus.

During the personal interview, the examiners recognized the distinction between such a dining event and Applicants' invention which relates to a computer-assisted method and a computer system for assessing food service needs for a campus and for optimizing the dining facilities.

The computer system and method of the invention enable segmenting a campus into geographic units and day parts; identifying each need not met by current services as an opportunity gap; for each geographic unit and day part, generating optimal dining facility locations and one or more optimal services, brands, hours, design layouts, and meal plans corresponding to the facility locations and day parts; and generating a financial model for each of said optimal facility locations.

Snyder et al. does not supply the differences between the invention and Halverson. Snyder has nothing to do with dining facilities on a campus, which is a separate and distinct art from Snyder's art of generating class schedules. Snyder only discloses a method for automatically producing a schedule of classes for an educational institution having a plurality of teachers, a plurality of students, and a curriculum. An input to a computer system includes student information comprising, for one or more of the plurality of students, an indication of his level of competence with respect to the educational material of one or more modules. The Snyder computer system preferably produces a schedule of classes for teaching the educational material of at least some of the modules responsive to the curriculum information and the student information. (See Abstract).

The present invention has been very successfully commercialized by the assignee, Aramark, which uses the trademark “MarketMATCH,” by a team led by one of the inventors of the present invention, solving long-felt but previously unsolved needs, and has been recognized many times by experts in the field of the invention.

As set forth in the Declaration under 37 C.F.R. 1.132 of inventor Royale, “Aramark’s “MarketMatch” Program, which is described and claimed in the above-referenced application * * * has achieved commercial success and has solved long-felt needs, as evidenced by the published articles and testimonials which are attached as exhibits [to the Royale Declaration].” Included among the exhibits were many testimonials, described in the Amendment accompanying the RCE and in the Royale Declaration itself.

According to the relevant USPTO examination guidelines, secondary indicia of non-obviousness can overcome a *prima facie* obviousness type rejection under 35 U.S.C. 103 and should be fairly evaluated by the examiner. In the present case, the secondary indicia of non-obviousness are very strong.

Reconsideration of the rejections under 35 U.S.C. 103 in view of the evidence being offered herewith and the arguments presented herein is respectfully requested.

All other grounds of rejection and objection were addressed and obviated in the Amendment accompanying the RCE. Accordingly, it is believed that all of the claims are in condition for allowance. An early notice thereof is solicited.

Respectfully submitted,

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